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August 12, 2003

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Marketing Order Administration Branch
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Washington, DC 20250-0237

Re: Federal Register Vol. 68, No. 152
page 46919, AMS - Change In Minimum Quality
and Handling Standards for Domestic and Imported
Peanuts Marketed in the United States

On behalf of the Board and membership of Peanut Growers Cooperative Marketing Association, I would like to submit the following comments on the interim rule filed on August 7, 2003.

The first issue I must raise is one of equity, and I have two examples of this to bring to your attention. On May 15, 2003 I submitted comments to you about the small kernel issue. In my letter I questioned the reasoning behind allowing a change in screen sizes for peanuts coming out of a shelling plant but not allowing a similar change in the screens which are used to grade a producer's load of farmer stock peanuts. Since I never got a response to my previous letter, I will make the same statement I made then - if the screen is lowered for out-going quality then it seems only fair and equitable to lower the screen when grading the farmer's peanuts.

Secondly, I notice that this interim rule is effective immediately. I served on the Peanut Administrative Committee for nearly 15 years. I do not recall any change coming out of that Committee which did not take effect until the following crop

year. By making this change effective immediately, then you have simply benefitted the handler who has current inventories. Other shellers who have tried to dispose of their inventories will not receive the same benefits. This is unheard of, and seems very unfair to some industry parties.

Needless to say, I am opposed to the relaxing of this rule. I think it shows poor judgement and is shortsighted on the part of the Department to allow this based on one study which showed little increase in aflatoxin from these smaller kernels. There have been numerous studies in the past which have given a different answer. I also know that there are studies available on the flavor characteristics of these small kernels. Is it a legitimate reason to disregard these studies since "no such concerns were mentioned or discussed at this year's meeting?"

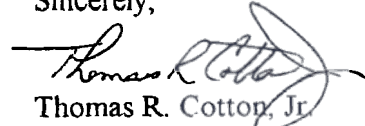
I was always under the impression that a rule such as this has to undergo certain economic tests. It is obvious to me that the economic beneficiaries here will be the shellers. I have already shown that growers will not benefit. In fact, there is a good chance that growers could lose. The 7% of kernels which used to go to oil stock and now can be kept for edible use could replace 7% of available farmer stock supply because the sheller will have more edible kernels out of each farmer stock ton from his shelling out turn. Further, if current supply is displaced by these kernels, then I am sure your economic calculations told you what will happen. If 7.7% of the kernels of a 1.8 million ton crop which had previously been used for nonedible purpose but now, as a result of your rule, can qualify as edible peanuts, then in my mind the sheller does not have to buy as much farmer stock. My calculation shows that there could be at least 72,500 fewer tons of farmer stock purchased. If these 72,500 tons are placed under loan, forfeited, and sold out at \$100 a ton for crushing, then the loss on these tons would be over \$18,000,000. This does not include the storage and handling on these tons nor does it include the displacement consequences of more edibles coming into the US as imports. Can the Department honestly say that all economic consequences were looked at? Let's review for a moment. The growers do not benefit. In fact, fewer of their peanuts may be purchased. I know of no manufacturers who want to purchase these kernels. The government has set itself up to lose at a minimum \$18,000,000 plus in expenses. The sheller has more kernels to sell. What is wrong with this picture?

I feel I know the answer to this as well since it was spelled out in the interim regulation. The Standards Board recommended this change, and I believe the change recommended by them included three columns for fall through. However, "a comment received from a handler association subsequent to the Board meeting suggested combining the three columns into one column". Based on that one comment, the change was done. I, on behalf of growers, have submitted comments on this and the other issues considered by the Standards Board and have not even received a response. Once again, I feel the Department needs to consider all comments and not just those from certain parties.

As you can tell, I think this issue and the stance taken by the Department is wrong and unfortunately the industry may one day have to pay the price due to increased aflatoxin concerns. In the mean time, I guess it is just the taxpayers and the growers who will be paying the price.

Thank you for allowing these comments

Sincerely,


Thomas R. Cotton, Jr.
Manager

TRCjr/q